

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of:

Redevelopment of Spectrum to  
Encourage Innovation in the  
Use of New Telecommunications  
Technologies

ET Docket No. 92-9

COMMENTS OF THE NORTH AMERICAN TELECOMMUNICATIONS ASSOCIATION

The North American Telecommunications Association ("NATA") submits the following comments on the petitions for reconsideration of the Commission's First Report and Order and Third Notice of Proposed Rulemaking, FCC 92-437, released October 16, 1992 ("Decision").

I. APPLE COMPUTER, INC.'S PETITION SHOULD BE GRANTED

NATA supports the petition of Apple Computer, Inc. for clarification or reconsideration of the Commission's Decision. As Apple explains, it is unclear whether the Commission actually adopted transition rules in the Decision. As Apple points out, Appendix A of the Decision refers to the rule changes as "proposed," and the text of the rules set out in Appendix A contains bracketed language which indicates key provisions have yet to be decided.

NATA also agrees with Apple that it is more appropriate under the circumstances to hold the adoption of rules in abeyance until all issues have been decided. This is particularly so with respect to the transition plan applicable to the portion of the spectrum to be allocated to unlicensed personal communications services

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("PCS"), currently proposed to be the 1910-1930 MHz band. The comments filed in response to the Commission's Third Notice of Proposed Rulemaking<sup>1/</sup> demonstrate that there are a number of special factors affecting the transition plan for unlicensed PCS spectrum. These include, for example, the need to completely clear the unlicensed PCS band before many types of unlicensed products can be introduced. See Comments of Telocator at 13-14; ROLM at 2;

II. THE COMMISSION SHOULD LIMIT, NOT EXPAND, THE PUBLIC SAFETY EXEMPTION

NATA opposes the requests of American Public Power Association ("APPA") and Utilities Telecommunications Council ("UTC") for expansion of the public safety exemption. As a number of commenting parties have pointed out, for many types of unlicensed devices it is critical that the spectrum allocated for unlicensed PCS be completely cleared. The existence of an exemption from mandatory relocation is inconsistent with the need for clear spectrum in the bands allocated for unlicensed PCS. See Comments of Apple Computer, Inc. at 6-7; ROLM at 2-3; Reply Comments of NATA at 3-4. Available information indicates that, out of approximately 450 microwave facilities in the 1910-1930 MHz band, as many as 25% may be classified as "public safety" facilities. As these parties have pointed out, the prospect that microwave licensees in this band might choose to, and be allowed to, remain in that band indefinitely regardless of the amount of compensation offered to them could place in jeopardy the value of the entire allocation for unlicensed PCS. Yet, the record in this proceeding and Docket 90-314 demonstrates that an allocation for unlicensed PCS is clearly in the public interest to serve the pent-up demand for numerous new office communications products and services which can be most efficiently provided on an unlicensed basis.

It is certainly not in the public interest to expand the scope of the public safety exemption. The Commission has proposed a generous transition and compensation plan for fixed microwave licensees. Petitioners have not shown that this plan imposes any

unreasonable hardship on those for whom they claim an exemption. Adding to the number of licensees who could refuse to move or demand exorbitant compensation would make it even more difficult to establish clear spectrum for unlicensed PCS. Indeed, for the reasons discussed above, the public safety exemption even as currently framed

Therefore, to the extent that it is appropriate to address the issue of the public safety exemption in the context of petitions for reconsideration, the Commission should limit rather than expand the scope of the exemption. In order to prevent the public safety exemption from frustrating the development of unlicensed PCS, NATA recommends that the Commission rule that the public safety exemption will not apply in the 1910-1930 MHz band or other frequencies allocated for unlicensed PCS.

Respectfully submitted,

  
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